

## REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-20 remain pending in the case. Claims 1-20 are rejected.

Independent Claims 1, 8 and 15 have been amended. No new matter has been added. For example, support for the amendments to independent Claims 1, 8 and 15 can be found in the instant application serial no. 10/637,172 at originally filed independent Claim 1, last 3 sentences on page 14, page 14 lines 13-18, last sentence on page 14 through line 2 on page 15, page 15 last paragraph, and last sentence on page 14 through line 2 on page 15, among other places in the originally filed instant application.

## 35 U.S.C. 102

On page 4, the Office Action rejected Claims 1-6, 8-11, 14-18 and 20 as being anticipated under 35 U.S.C. 102(a) by U.S. Patent Application Publication No. 2002/0144156 by Copeland III et al. (referred to hereinafter as "Copeland"). Applicants have reviewed the asserted art and respectfully submit that Copeland does not teach and the embodiment recited by amended independent Claim 1 for at least the following rationale.

## COPELAND

This section describes Applicants' understanding of what Copeland teaches. Copeland teaches creating a host port profile based on TCP headers that are analyzed for a period of time (0067, 0069, 0070, 0074) because "[i]nitially a network administrator may not know all the client and server applications that are running on their network" (0069). Further, "... the services are automatically updated in the profile" (0069A). The network administrator can subsequently modify the ports in the host port profile (look for where this was). After Copeland has created a host port profile that is "accurate," Copeland teaches collecting ports from observed TCP headers (referred to herein as

“observed ports”) into flow data structures and comparing his “observed ports” to his host port profile to determine if the services associated with the observed ports are “out of profile” (abstract, 0062-0064, 0066, 0157).

#### DIFFERENCES BETWEEN COPELAND AND CLAIM 1

This section describes Applicants’ understanding of at least some of the differences between what Copeland teaches and the embodiment recited by amended independent Claim 1.

MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants respectfully submit that Copeland does not teach and the embodiment recited by amended independent Claim 1 for at least the following rationale.

Applicants note that the board’s decision dated February 25, 2010 drew a comparison between Copeland’s automatic build up of ports in his host port profile to “querying a port mapper for a mapped port assignment.” Applicants do not understand Copeland’s automatic build up of the ports (also referred to herein as “host profile ports”) that are included in his host port profile based on TCP headers that are analyzed over a period of time (0067, 0069, 0070, 0074) to teach “a map port assignment, which was created when an application registered a service provided by the application at the time the application was brought up,” “registered a service,” and “a current port used by said registered service,” as recited by independent Claim 1. For example, Applicants do not understand Copeland’s automatic build up based on analyzed TCP header information to teach “registered.” Further, Applicants do not understand Copeland’s service that is determined from analyzed TCP headers to teach “a registered service.” Further, Copeland’s host profile ports are used to determine if his “observed ports” are

in or out of profile. Therefore, Applicants do not understand Copeland's host profile ports to teach "a current port used by said registered service."

Applicants do not understand Copeland's ports that are observed (observed ports) from TCP header information to teach "authorized port and authorized service" or to teach "registered service." For example, Copeland's observed ports are not the ports that are in his host port profile. Instead, Copeland teaches determining whether his "observed" are "in profile." Further, Copeland's port/service that is observed from TCP headers does not teach a "registered service." Therefore, Applicants do not understand Copeland's ports that are observed from his TCP headers to teach either "authorized port and authorized service" or "registered service."

Therefore, Applicants do not understand Copeland to teach "accessing port binding information, which includes an identification and an authorized port of an authorized service, in a port authorization file in said network; querying a port mapper for a mapped port assignment, which was created when an application registered a service provided by the application with said port mapper at the time said application was brought up, said mapped port assignment includes a current port used by said registered service; determining if said identified service is currently using said authorized port by comparing said mapped port assignment to said port binding information," as recited by independent Claim 1.

## SUMMARY

As discussed herein, Applicants respectfully submit that the embodiment recited by independent Claim 1 is patentable for at least the reasons that Applicants do not understand Copeland to teach "accessing port binding information, which includes an identification and an authorized port of an authorized service, in a port authorization file in said network; querying a port mapper for a mapped port assignment, which was created when an application registered a service provided by the application with said port mapper at the time said application was brought up, said mapped port assignment includes a current port used by said registered service; determining if said identified

service is currently using said authorized port by comparing said mapped port assignment to said port binding information,” as recited by independent Claim 1. For similar reasons, Applicants respectfully submit that Copeland does not teach the embodiments recited by independent Claims 8 and 15.

Claims 2-7 depend on independent Claim 1. Claims 9-14 depend on independent Claim 8. Claims 16-20 depend on independent Claim 15. These dependent claims include all of the features of their respective independent base claims. Therefore, these dependent claims should be patentable for at least the reasons that their respective independent base claims should be patentable.

### 35 U.S.C. 103

On page 8, the Office Action rejected Claims 7, 12, and 1 as being obvious under 35 U.S.C. 103(a) in view of Copeland and further in view of U.S. Patent No. 6,988,208 by Hrabik et al. (referred to hereinafter as “Hrabik”). Applicants have reviewed the asserted art and respectfully submit that neither Copeland nor Hrabik teach or suggest and the embodiment recited by amended independent Claim 1 for at least the following rationale.

“As reiterated by the Supreme Court in KSR, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)).

### NO MOTIVATION TO COMBINE

This section describes Applicants’ understanding of at least some of the reasons why there is no motivation to combine Copeland with any other asserted art, such as Hrabik, because Applicants understand Copeland to teach away from the embodiment recited by amended independent Claim 1.

Applicants respectfully submit that “[i]t is improper to combine references where the references teach away from their combination” (emphasis added; MPEP 2145(X)(D)(2); *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)). Applicants respectfully note that “[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention” (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)). Further, “[A] reference will teach away if it

suggests that the line of development flowing from the reference's disclosures is unlikely to be productive of the result sought by the applicant. *In re Gurley*, 31 USPQ2d 1130 (Fed. Cir. 1994)." More specifically, Applicants respectfully submit that there is no motivation to combine Copeland with any other asserted art, such as Hrabik, because Applicants understand Copeland to teach away from the embodiment recited by amended independent Claim 1 for at least the following rationale.

Applicants note that the board's decision dated February 25, 2010 drew a comparison between Copeland's automatic build up of ports in his post port profile to "querying a port mapper for a mapped port assignment." Applicants understand Copeland's automatic build up of the ports (also referred to herein as "host profile ports") that are included in his host port profile based on TCP headers that are analyzed over a period of time (0067, 0069, 0070, 0074) to teach away from "a map port assignment, which was created when an application registered a service provided by the application at the time the application was brought up," "registered a service," and "a current port used by said registered service," as recited by independent Claim 1. For example, Applicants understand automatic build up based on analyzed TCP header information teaches away from "registered." Further, Applicants understand a service that is determined from analyzed TCP headers to teach away from "a registered service." Further, Copeland's host profile ports are used to determine if his "observed ports" are in or out of profile. Therefore, Applicants understand Copeland's host profile ports to teach away from "a current port used by said registered service."

Applicants understand Copeland's ports that are observed (observed ports) from TCP header information to teach away from "authorized port and authorized service" and teach away from "registered service." For example, Copeland's observed ports are not the ports that are in his host port profile. Instead, Copeland teaches determining whether his "observed" are "in profile." Further, Copeland's port/service that is observed from TCP headers does not teach a "registered service." Therefore, Applicants understand Copeland's ports that are observed from his TCP headers to

teach away from “authorized port and authorized service” and to teach away from “registered service.”

Therefore, Applicants understand Copeland to teach away from “accessing port binding information, which includes an identification and an authorized port of an authorized service, in a port authorization file in said network; querying a port mapper for a mapped port assignment, which was created when an application registered a service provided by the application with said port mapper at the time said application was brought up, said mapped port assignment includes a current port used by said registered service; determining if said identified service is currently using said authorized port by comparing said mapped port assignment to said port binding information,” as recited by independent Claim 1.

#### SUMMARY

Therefore, Applicants respectfully submit that the embodiment recited by independent Claim 1 is patentable for at least the reasons, as discussed herein, that Applicants believe that there is no motivation to combine Copeland with any other asserted art, such as Hrabik, for at least the reasons that Applicants understand Copeland to teach away from “accessing port binding information, which includes an identification and an authorized port of an authorized service, in a port authorization file in said network; querying a port mapper for a mapped port assignment, which was created when an application registered a service provided by the application with said port mapper at the time said application was brought up, said mapped port assignment includes a current port used by said registered service; determining if said identified service is currently using said authorized port by comparing said mapped port assignment to said port binding information,” as recited by independent Claim 1. For similar reasons, Applicants respectfully submit that Copeland does not teach the embodiments recited by independent Claims 8 and 15.

Claim 7 depends on independent Claim 1. Claim 12 depends on independent Claim 8. Claim 19 depends on independent Claim 15. These dependent claims include

all of the features of their respective independent base claims. Therefore, these dependent claims should be patentable for at least the reasons that their respective independent base claims should be patentable.



35 U.S.C. 103

On page 9, the Office Action rejected Claim 13 as being obvious under 35 U.S.C. 103(a) in view of Copeland and further in view of U.S. Patent No. 6,134,591 by Nickles (referred to hereinafter as “Nickles”). Applicants have reviewed the asserted art and respectfully submit that neither Copeland nor Nickles teach or suggest and the embodiment recited by amended independent Claim 1 for at least the following rationale.

As presented herein, Applicants understand Copeland to teach away from the embodiment recited by independent Claim 1. Since Copeland teaches away from the embodiment recited by independent Claim 1, Nickles cannot overcome the deficiency in Copeland because there is no motivation to combine Copeland with any other asserted art, such as Nickles.

For at least these reasons, independent Claim 1 should be patentable over Copeland in view of Nickles. For similar reasons, independent Claim 8 should also be patentable over Copeland in view of Nickles. Claim 13 depends on independent Claim 8 and includes all of the features of independent Claim 8. Therefore, Claim 13 should be patentable for at least the reasons that independent Claim 8 should be patentable.

### CONCLUSION

Based on the arguments presented above, Applicants respectfully assert that Claims 1-20 overcome the rejections of record and, therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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